



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII  
324 EAST ELEVENTH STREET  
KANSAS CITY, MISSOURI - 64106

August 2, 1982

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Robert G. Carr  
Carr & Associates  
225 Broadway  
44th Floor East Penthouse  
New York, New York 10007

Mr. Ward A. Buck, Jr.  
Vice President - Manufacturing  
Perfection Manufacturing Company  
5411 Bulwer Avenue  
St. Louis, Missouri 63147

Gentlemen:

Re: Docket No. 81-H-021

Attached for your files is a copy of the Consent Agreement and Final Order agreed upon by Perfection Manufacturing Company and the Environmental Protection Agency.

Sincerely yours,

Rita Ricks  
Regional Hearing Clerk

Attachment

cc: Cheryle Micinski  
Office of Regional Counsel  
Environmental Protection Agency  
324 East 11th Street  
Kansas City, Missouri 64106

bcc: M. Sanderson  
K. Sherrill  
M. Anderson  
B. Hammel

Art Groner  
Missouri Division of Natural Resources  
P. O. Box 1368  
Jefferson City, Missouri 65101



R00406943

RCRA RECORDS CENTER

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Docket No. 81-H-021

CONSENT AGREEMENT AND  
FINAL ORDER

# PRELIMINARY STATEMENT

This proceeding for the assessment of a civil penalty was initiated pursuant to Section 3008 of the Resource Conservation and Recovery Act (hereinafter RCRA) 42 U.S.C. 6928. The Complainant in this proceeding, the United States Environmental Protection Agency, issued a Complaint and Compliance Order and Notice of Opportunity for Hearing to Respondent, Perfection Manufacturing Company on or about February 5, 1982. The Complaint charged Respondent with violation of Section 3005 of RCRA, 42 U.S.C. §6925 and with failure to comply with RCRA Subtitle C regulations promulgated pursuant to the authority of 42 U.S.C. 6901 et seq.

For the purposes of this proceeding, Respondent admits the jurisdictional allegations of the Complaint. Respondent neither admits nor denies the specific factual allegations set forth in the Complaint and Compliance Order and set forth in the Findings of Fact below. This agreement shall constitute the final disposition of this matter as long as the terms and conditions of the Consent Agreement are met. Respondent hereby explicitly waives its right to receive a hearing on any issue of fact or law set forth herein. Respondent consents to the Order hereinafter recited, agrees to the payment of a penalty in the amount set out in the Order and agrees to comply with the provisions set forth in paragraphs 19 and 20.

## FINDINGS OF FACT

1. Respondent operates a facility in St. Louis, Missouri, which is engaged in the manufacture of exercise bicycles.
2. In the course of production, Respondent generates hazardous waste numbered U239, as defined at 40 C.F.R. §261.30.
3. Respondent notified EPA pursuant to §3010 of RCRA, 42 U.S.C. 6930, that it was a generator and a treatment, storage or disposal facility of hazardous waste.

4. Respondent failed to file a timely RCRA Part A permit application as required by §3005 of RCRA, 42 U.S.C. 6925, and the regulations promulgated thereunder at 40 C.F.R. §122.22. Therefore, Respondent failed to achieve Interim Status as defined at 40 C.F.R. §122.23.
5. Subsequent to November 19, 1980, Respondent stored hazardous waste on site without a permit as required by §3005 of RCRA.
6. On August 13, 1981, Respondent's facility at St. Louis, Missouri, was inspected by an employee of Complainant.
7. On the date of the inspection, Respondent was a generator of hazardous waste and a storage facility for hazardous waste, and thus subject to the requirements of Subtitle C of RCRA and the regulations promulgated thereunder at 40 C.F.R. Part 262 and 40 C.F.R. Part 265.
8. Generators of hazardous waste are required by 40 C.F.R. §262.34(a)(3) to mark each container of hazardous waste with the beginning date of accumulation.
9. On or before the date of the inspection, Respondent had failed to properly mark drums of hazardous waste with the beginning date of accumulation.
10. Storage facilities are required by 40 C.F.R. §265.174 to conduct weekly inspections of areas where containers of hazardous waste are stored.
11. On or before the date of the inspection, Respondent had failed to conduct weekly inspections.
12. Storage facilities are required by 40 C.F.R. §265.176 to store containers of ignitable waste at least 15 meters from the facility property line.
13. On the date of the inspection, Respondent had stored ignitable waste closer than 15 meters to the property line.
14. According to information submitted by Respondent, Respondent has properly and within all applicable RCRA regulations disposed of several 55-gallon drums of hazardous waste which had previously accumulated on site.

CONCLUSIONS OF LAW

15. Respondent has violated §3005 of RCRA, 42 U.S.C. 6925 by storing hazardous waste on site without a permit.

16. Respondent has violated §3002 of RCRA, 42 U.S.C. 6922 by failing to comply with the regulations promulgated thereunder, specifically 40 C.F.R. §262.34(a)(3) which required Respondent to mark the beginning accumulation date on containers of hazardous waste.

17. Respondent has violated §3004 of RCRA, 42 U.S.C. 6924 by failing to comply with the regulations promulgated thereunder, specifically 40 C.F.R. §265.174, requiring weekly inspections of containers of hazardous waste and 40 C.F.R. §265.176, requiring storage of containers of ignitable waste at least 15 meters from the facility property line.

18. Respondent shall currently qualify as a small quantity generator and shall be subject to the requirements of 40 C.F.R. §261.5. Respondent shall qualify as a small quantity generator provided that Respondent does not generate more than 1,000 kilograms of hazardous waste in a calendar month nor accumulate more than 1,000 kilograms of hazardous waste on site at any time. If Respondent at any time generates more than 1,000 kilograms of hazardous waste in a calendar month ~~or~~ accumulates on site more than 1,000 kilograms of hazardous waste, Respondent shall become fully subject to the regulations at 40 C.F.R. Part 262 and Part 265 as appropriate. or

ORDER

19. Pursuant to the authority of §3008 of RCRA, 42 U.S.C. 6928, upon consideration of the above Findings of Fact and Conclusions of Law, upon consideration of the corrective measures taken by Respondent to assure compliance with applicable regulations, upon consideration of the nature, circumstances and seriousness of the violations, and with respect to Respondent's ability to pay, and after consideration of the entire record herein, it is this 20<sup>th</sup> day of JULY, 1982, ORDERED THAT RESPONDENT, PERFECTION MANUFACTURING COMPANY, (a) cease operation as a storage facility of hazardous waste; (b) fully comply with all applicable RCRA regulations for small quantity generators at 40 C.F.R. §261.5, provided that Respondent meets the definition of a small quantity generator as set forth in §261.5(a); and (c) if Respondent exceeds the limitations set out at 40 C.F.R. 261.5, Respondent must comply with the applicable RCRA regulations at 40 C.F.R. Parts 262 through 265.

20. It is further ORDERED that Respondent pay a civil penalty in the amount of two thousand (\$2,000) dollars within sixty (60) days of receipt of this Order, said penalty to be paid by cashier's or certified check payable to United States Treasury, and forwarded to the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Missouri 64106.

PERFECTION MANUFACTURING COMPANY  
Respondent

By: Ward A. Buck Jr. V. Pres.

At: 5411 BULWER AVE.

Date: JULY 20, 1982

ST. LOUIS, MO. 63141

U.S. ENVIRONMENTAL PROTECTION AGENCY  
Complainant

By: William Aspratt  
for David A. Wagoner  
Director, Air and Waste Management  
Division

At: 324 East 11th Street

Date: July 26, 1982

Kansas City, Missouri 64106

It is so ordered. This Order shall become effective immediately.

Date: July 27, 1982  
for William M. Rice  
John J. Franke, Jr.  
Regional Administrator  
U.S. EPA  
Region VII  
324 East 11th Street  
Kansas City, Missouri 64106

cc: Art Groner, MDNR